

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MORGAN ART FOUNDATION LIMITED,

Plaintiff,

-against-

MICHAEL MCKENZIE, et al.,

Defendants.

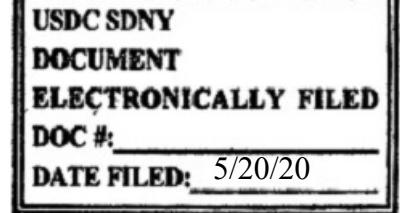
MORGAN ART FOUNDATION LIMITED, et al.,

Plaintiffs,

-against-

JAMES W. BRANNAN, *as personal representative of the Estate of Robert Indiana,*

Defendant.



18-CV-4438 (AT) (BCM)

18-CV-8231 (AT) (BCM)

ORDER

BARBARA MOSES, United States Magistrate Judge.

The Court held a telephonic discovery status conference in these actions on May 18, 2020. Prior to the conference, the Court received and reviewed (1) the parties' joint pre-conference letter, filed as directed on May 13, 2020, in both cases (Dkt. No. 260 in Case No. 18-CV-4438; Dkt. No. 106 in Case No. 18-CV-8231); and (2) three letter-applications by plaintiff Morgan Art Foundation Limited (MAF), each dated May 15, 2020 (one business day before the conference), each filed in Case No. 18-CV-4438, and each seeking discrete discovery relief against one or more of the defendants in that case. For the reasons stated on the record during the May 18 conference, those letter-applications, and certain related issues, are resolved as follows:

1. MAF's letter-application to compel defendants American Image Art and McKenzie (the AIA Defendants) to answer MAF's Requests for Admission (RFAs) (Dkt. No. 61 in Case No. 18-CV-4438)
 - a. The AIA Defendants need not answer RFAs 251-258.
 - b. As to the remaining RFAs in dispute, the AIA Defendants shall respond to MAF's letter-application, in accordance with Moses Ind. Prac. § 2(e), no later than **May 20, 2020**.
 - c. Plaintiff MAF shall file its reply no later than **May 22, 2020**.

2. MAF's letter-application to compel the AIA Defendants to provide additional information about their document search and review process (Dkt. No. 262 in Case No. 18-CV-4438)

The AIA Defendants shall provide the following information to MAF, in writing, no later than **May 26, 2020**:

- a. Which email accounts of the AIA Defendants were searched;
- b. Which email accounts (in existence during the relevant time period) were not searched;
- c. What other sources of electronically stored information (ESI) belonging to the AIA Defendants (e.g., databases, electronic files, desktop and laptop computers, cellphones, text messages, messaging apps, social media accounts) were searched;
- d. What sources of ESI (in existence during the relevant time period) were not searched;
- e. What search terms and connectors were used;
- f. Who conducted the search(es);
- g. What hard copy sources were searched, and by whom;
- h. What efforts were made to obtain documents (including ESI) in the physical possession of AIA's present or former agents, including present or former employees and independent contractors.

3. MAF's letter-application to compel defendant Jamie Thomas to answer certain RFAs (Dkt. No. 263 in Case No. 18-CV-4438)

- a. Defendant Thomas shall respond to the letter-application, in accordance with Moses Ind. Prac. § 2(e), no later than **May 20, 2020**.

- b. Plaintiff MAF shall file its reply no later than **May 22, 2020**.

4. To the extent there are any additional discovery disputes arising out of the parties' joint pre-conference letter, the parties must file their letter-applications no later than **May 26, 2020**.

5. Oral argument on the AIA Defendants' motion for leave to amend (Dkt. No. 257 in 18-CV-4438) is currently scheduled for 11:30 a.m. on **June 9, 2020**. At 12:00 p.m. on **June 9, 2020**, the Court will hear argument on plaintiffs' motions for spoliation sanctions (Dkt. No. 213 in Case No. 18-CV-4438; Dkt. No. 86 in Case No. 18-CV-8231). The arguments will be held via videoconference; conferencing instructions will follow.

The Clerk of Court is respectfully directed to close the letter-application at Dkt. No. 262 in Case No. 18-CV-4438.

Dated: New York, New York
May 20, 2020

SO ORDERED.



BARBARA MOSES
United States Magistrate Judge